



## **KENTUCKY DEPARTMENT OF EDUCATION ADVISORY GROUP TOPIC SUMMARY**

**ADVISORY GROUP:** Local Superintendents Advisory Council (LSAC)

**MEETING DATE:** March 30, 2021

**Agenda Item:** Amendment to 703 KAR 5:240, Administrative Procedures and Guidelines

**Presenters:** Rhonda Sims and Jennifer Stafford

### **Summary of Discussion:**

Rhonda Sims and Jennifer Stafford led the discussion on the proposed amendments to the regulation. Both explained that due to a recent federal audit by the U.S. Department of Education (USED), it is necessary to amend the regulation and remove extraordinary circumstance as a category for exempting students from state testing. In the past, the Kentucky Department of Education (KDE) allowed districts to exempt students from state testing by either using a medical exemption or extraordinary circumstance. Due to the audit finding and removal of extraordinary circumstance, medical exemptions will now be expanded to include a more complete definition of the well-being of students (i.e., social, emotional, and physical).

Members supported the option of having one read of the amendments to this regulation.

### **Action Taken:**

A motion was made to approve the proposed amendments to the regulation. The motion passed unanimously.

### **Follow-up Required:**

No additional follow-up is required. The regulation will now go before the Kentucky Board of Education (KBE) at its April 7, 2021 meeting as an action/discussion item.

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**Agenda Item:** Amendment to 703 KAR 5:070, Inclusion of Special Populations in the State-Required Assessment and Accountability Programs

**Presenters:** Rhonda Sims, Kelly Foster, Gretta Hylton and Jennifer Stafford

### **Summary of Discussion:**

Rhonda Sims led the discussion and explained that this administrative regulation establishes the procedures for inclusion of special student populations in the state-required assessment and accountability programs. She explained that this regulation is being opened due to a recent U.S. Department of Education (USED) audit finding. Once open, several revisions have been proposed to clean-up and simplify language to areas where confusion and misunderstandings

have occurred in the past. In addition, she stated that the Office of Assessment and Accountability (OAA) collaborated with the Office of Continuous Improvement and Support (OCIS) and the Office of Special Education and Early Learning (OSEEL) when making amendments to the regulation.

Kelly Foster then discussed specific amendments that the OCIS made to Section 2, *Inclusion of Students as English Learners (ELs)*. She explained that in order to reduce audit findings, Section 2 was amended to clarify frequently misunderstood requirements and to clarify processes for the identification and planning processes for ELs. She stated that the amendments re-organize Section 2, create a definition for the Program Service Plan (PSP), specify the membership of a PSP committee, and create a requirement for schools to administer a Kentucky Department of Education (KDE) created Home Language Survey. Section 2 also makes minor language changes to align the regulation to the Every Student Succeeds Act (ESSA), including the inclusion of an opt-out requirements for parents of EL students and extending the required monitoring period from two to four years.

Gretta Hylton then briefly discussed amendments made by the OSEEL. She explained that OSEEL mostly cleaned up language throughout the regulation and did not make any significant changes. For example, she stated that the vague term “education plan” is now written as “IEP, 504 Plan or PSP.” In addition, “Alternate Assessment Program” has been amended to read “Kentucky Alternate Assessment.”

Finally, Jennifer Stafford discussed specific amendments made by the OAA. She explained that one amendment required by the USED audit includes removing text that states that Kindergarten students cannot exit EL status until reaching Fully English Proficient (FEP) status on the 1<sup>st</sup> grade English Language Proficiency Assessment. Kindergarten students can exit EL status if they meet benchmark on the assessment and the old language has been removed. Other amendments discussed were the removal of “simplified language” and “paraphrasing” and “text to speech or human” from the word reader. In these examples, she stressed that we were removing the language, not the practice.

Superintendent Bobrowski then asked one clarification on the removal of “text to speech or human” after the word reader. He wanted to know if a reader can still be provided on the assessment. Jennifer Stafford responded by answering “yes” and that text to speech or a human reader can be used on assessments and that it did not matter.

Members supported the option of having one read of the amendments to this regulation.

**Action Taken:**

A motion was made to approve the proposed amendments to the regulation. The motion passed unanimously.

**Follow-up Required:**

No additional follow-up is required. The regulation will now go before the Kentucky Board of Education (KBE) at its April 7, 2021 meeting as an action/discussion item.

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**Agenda Item:** Amendment to 702 KAR 3:060

**Presenter:** Robin Kinney

**Summary of Discussion:**

Robin Kinney provided an explanation to the Council of the necessary for the regulatory amendment. She explained that the General Assembly amended the national board certified teacher statute with SB 174 (2020). That statute changed the salary supplement requirements for teachers receiving a certificate after July 1, 2020. The amendment to 702 KAR 3:060 is necessary to make the regulation legally compliant with the statute.

**Action Taken:** The amendment was unanimously approved by the Council.

**Follow-up Required:** The regulation will now go before the Kentucky Board of Education at its meeting on April 7, 2021 for discussion and action on the item.

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**Agenda Item:** Amendment to 701 KAR 5:100, Guidelines for Alternative Models for School-Based Decision Making

**Presenter:** Dr. Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support

**Summary of Discussion:**

701 KAR 5:100 is being amended to include new flexibilities for schools seeking to implement alternative School-Based Decision Making (SBDM) models. The primary change to this regulation allows SBDM councils to amend their membership to include non-voting members, or expand the size of their council in alignment with the statutory ratio, without applying to the Kentucky Department of Education and registering as an alternative model. For councils that wish to make changes beyond the statutory ratio or add new voting members, the regulation also establishes a consistent timeline for the application and implementation of those councils. In addition, the amendments create timelines for the application for exemption from SBDM requirements and encapsulates the language from 701 KAR 5:080 which is being repealed.

Following the presentation, a member of LSAC asked how many councils are currently exempted from the SBDM requirements. Staff reported that there are 10 councils exempted from the requirement due to their being a one building district. There are no councils exempted from the requirements based on their accountability rating.

**Action Taken:**

A motion was made to approve the regulation as recommended by the Kentucky Department of Education. The motion passed unanimously.

**Follow-up Required:**

The regulation will now go before the Kentucky Board of Education at its meeting on April 7, 2021 for discussion and action on the item.

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**Agenda Item:** Repeal of 701 KAR 5:080, Application for Approval of Alternative School-Based Decision Making Model

**Presenter:** Dr. Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support

**Summary of Discussion:**

701 KAR 5:080 is being repealed to reduce the number of regulations in effect. The content of this regulation has been captured in the amendments to 701 KAR 5:100 discussed above. There were no questions or points of discussion raised by members of LSAC following the presentation.

**Action Taken:**

A motion was made to approve the regulation as recommended by the Kentucky Department of Education. The motion passed unanimously.

**Follow-up Required:**

The regulation will now go before the Kentucky Board of Education at its meeting on April 7, 2021 for discussion and action on the item.

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**Agenda Item:** Amendment to 703 KAR 5:225, Continuous Improvement Planning for Schools and Districts

**Presenter:** Dr. Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support

**Summary of Discussion:**

703 KAR 5:225 is being amended to increase flexibilities and reduce administrative burden for the Kentucky Department of Education as well as local districts and schools. The changes being made include the removal of named diagnostic, provisions to allow improvement plans to remain in compliance with changes to federal law, the incorporation of the English Learner Plan (Lau Plan), and to allow other state statutes or regulations to add components to improvement plans. There were no questions or points of discussion raised by members of LSAC following the presentation.

**Action Taken:**

A motion was made to approve the regulation as recommended by the Kentucky Department of Education. The motion passed unanimously.

**Follow-up Required:**

The regulation will now go before the Kentucky Board of Education at its meeting on April 7, 2021 for discussion and action on the item.

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**Agenda Item:** Amendment to 707 KAR 1:340, Procedural Safeguards (Second Reading)

**Presenter(s):** Gretta Hylton, Todd Allen, David Wickersham

**Summary of Discussion:** The presentation identified proposed changes to the regulation, including and focusing upon language changes made since the First Reading and in response to feedback received during and after the First Reading. Staff reviewed the purposes and provisions of the Individuals with Disabilities Education Act (IDEA) and the Act's requirements for the department and for local school districts. Changes to the regulation are necessary to improve alignment with the federal regulations and with current district practices. Sections 3 and 4 of the

regulation clarify the difference between an Admissions Release Committee (ARC ) meeting notice and prior written notice.

A meeting notice is a notice to parents or guardians that an ARC meeting will take place. Prior written notice is a notice of proposed or refused action by the local education agency (LEA).

Questions involved, primarily, disciplinary removals of and changes in placement for students with disabilities. Staff agreed to provide guidance around the differences between a removal and a change of placement.

**Action Taken:** A motion was made to add language to the regulation, but that motion was not seconded and was not voted upon. Upon motion, and with one abstention, LSAC voted to take no action on 707 KAR 1:340. The motion to take no action also included a motion to recommend that the Kentucky Board of Education consider establishing a panel of legal experts to provide opinions on whether the amended regulation comports with or exceeds the prior written notice provisions of federal law.

**Follow-up Required:** The regulation will be before the Kentucky Board of Education on April 7, 2021.

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**Agenda Item:** Approval of Amended Federal Perkins Performance Goals

**Presenter:** David Horseman, Associate Commissioner, OCTE

**Summary of Discussion:** Associate Commissioner Horseman presented the federal legislation that allowed for changes to be made to these performance measures unforeseen circumstances (COVID-19) and the reasons that KDE decided to utilize this legislation. He informed the council that KDE has asked for public feedback, but at this time have not received any. He did not receive any specific questions related to this request for approval.

**Action Taken:** The council approved the amendments as presented by Mr. Horseman.

**Follow-up Required:** The council did request that if KDE received any last minute public comments, that those be summarized for the KBE when presenting this amendment.

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**Agenda Item:** Approval of Kentucky Minimum Specifications for School Buses

**Presenter:** Chay Ritter, Elisa Hanley

**Summary of Discussion:**

Review of changes to bus specifications which include, but are not limited to, an extension of the warranty from two (2) to five (5) years, corrected spelling of “ratio”, updated references for year and inclusion of Commissioner Glass’s name.

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**Agenda Item:** Equity Playbook

**Presenter:** Thomas Woods-Tucker

**Summary of Discussion:**

Dr. Woods-Tucker shared a brief update about plans for the KDE's Equity Playbook.